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Report of the United Nations High Commissioner for Refugees, questions relating to refugees, returnees and displaced persons and humanitarian questions

South Africa:* draft resolution

Assistance to refugees, returnees and displaced persons in Africa

The General Assembly,

Recalling its resolution 57/183 of 18 December 2002,

Recalling also the provisions of its resolution 2312 (XXII) of 14 December 1967, by which it adopted the Declaration on Territorial Asylum,

Recalling further the Organization of African Unity Convention governing the specific aspects of refugee problems in Africa of 1969[1] and the African Charter on Human and Peoples' Rights,[2]

Recalling the Khartoum Declaration[3] and the Recommendations on Refugees, Returnees and Internally Displaced Persons in Africa[4] adopted by the Organization of African Unity[5] at the ministerial meeting held at Khartoum on 13 and 14 December 1998,

Welcoming decision EC/CL/Dec.27 (III) on the situation of refugees, returnees and displaced persons in Africa adopted by the Executive Council of the African Union at its third ordinary session, held at Maputo from 4 to 8 July 2003,

Welcoming also decision AHG/Dec.165 (XXXVII) on the fiftieth anniversary of the adoption of the 1951 Convention relating to the Status of Refugees by the

* On behalf of the States Members of the United Nations that are members of the African Group.

[1] United Nations, *Treaty Series*, vol. 1001, No. 14691.

[2] Ibid., vol. 1520, No. 26363.

[3] A/54/682, annex I.

[4] Ibid., annex II.

[5] On 8 July 2002, the Organization of African Unity ceased to exist and, in its place, the African Union came into force on 9 July 2002.

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Assembly of Heads of State and Government of the Organization of African Unity at its thirty-seventh ordinary session, held at Lusaka from 9 to 11 July 2001,[6]

Recalling General Assembly resolution 57/2 of 16 September 2002 on the United Nations Declaration on the New Partnership for Africa's Development, and affirming that international support for the implementation of the New Partnership for Africa's Development[7] is essential, notably as it relates to refugees, returnees and displaced persons,

Reaffirming that the 1951 Convention relating to the Status of Refugees,[8] together with the 1967 Protocol thereto,[9] as complemented by the Organization of African Unity Convention of 1969, remains the foundation of the international refugee protection regime in Africa,

Recognizing that the fundamental principles and rights embodied in those Conventions have provided a resilient protection regime within which millions of refugees have been able to find safety from armed conflicts and persecution,

Welcoming in that regard the Declaration adopted at the Ministerial Meeting of States Parties to the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees, held at Geneva on 12 and 13 December 2001,[10] as an expression of their collective commitment to full and effective implementation of the Convention and the Protocol,

Recalling the Comprehensive Implementation Plan adopted by the Special Meeting of Governmental and Non-Governmental Technical Experts convened by the Organization of African Unity and the Office of the United Nations High Commissioner for Refugees at Conakry from 27 to 29 March 2000 on the occasion of the thirtieth anniversary of the adoption of the Organization of African Unity Convention governing the specific aspects of refugee problems in Africa of 1969, and noting its endorsement by the Council of Ministers of the Organization of African Unity at its seventy-second ordinary session, held at Lomé from 6 to 8 July 2000,[11]

Commending the First Ministerial Conference on Human Rights in Africa of the African Union, held at Kigali on 8 May 2003, and recalling the attention paid to issues relevant to refugees and displaced persons in the Declaration and Plan of Action adopted by the Conference,

Recognizing the contributions made by African States to the development of regional standards for the protection of refugees and returnees, and noting with appreciation that countries of asylum are hosting refugees in a humanitarian spirit and in a spirit of African solidarity and brotherhood,

Recognizing also the need for States to address resolutely the root causes of forced displacement and to create conditions that facilitate durable solutions for refugees and displaced persons, and stressing in that regard the need for States to

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[6] See A/56/457, annex I.

[7] A/57/304, annex.

[8] United Nations, *Treaty Series*, vol. 189, No. 2545.

[9] Ibid., vol. 606, No. 8791.

[10] HCR/MMSP/2001/10, annex I.

[11] See A/55/286, annex I, decision CM/Dec.531 (LXXII), para. 8.

foster peace, stability and prosperity throughout the African continent to forestall large refugee flows,

Convinced of the need to strengthen the capacity of States to provide assistance to and protection for refugees, returnees and displaced persons and of the need for the international community, within the context of burden-sharing, to increase its material, financial and technical assistance to the countries affected by refugees, returnees and displaced persons, to simultaneously address the inadequacies of existing assistance arrangements and to support initiatives in this regard,

Acknowledging with appreciation that some assistance is already rendered by the international community to refugees, returnees and displaced persons and host countries in Africa,

Noting the "Convention Plus" initiative of the United Nations High Commissioner for Refugees, aimed at strengthening the international protection regime through the development of comprehensive approaches to resolving refugee situations, including improving international burden and responsibility-sharing and realizing durable solutions,

Deeply concerned about the continuing critical humanitarian situation in African countries, in particular in the Horn of Africa and southern Africa, aggravated, among other things, by persistent natural disasters, including drought, floods and desertification, which can precipitate the displacement of people,

Noting with great concern that, despite all the efforts made so far by the United Nations, the African Union and others, the situation of refugees and displaced persons in Africa remains precarious,

Stressing that the provision of relief and assistance to African refugees by the international community should be on an equitable and non-discriminatory basis,

Considering that, among refugees, returnees and internally displaced persons, women and children are the majority of the population affected by conflict and bear the brunt of atrocities and other consequences of conflict,

1. *Takes note* of the reports of the Secretary-General[12] and the United Nations High Commissioner for Refugees;[13]

2. *Notes with concern* that the deteriorating socio-economic situation, compounded by political instability, internal strife, human rights violations and natural disasters, has led to increased numbers of refugees and displaced persons in some countries of Africa, and remains particularly concerned about the impact of large-scale refugee populations on the security, socio-economic situation and environment of countries of asylum;

3. *Encourages* African States to ensure the full implementation of and follow-up to the Comprehensive Implementation Plan adopted by the Special Meeting of Governmental and Non-Governmental Technical Experts convened by the Organization of African Unity and the Office of the United Nations High Commissioner for Refugees at Conakry from 27 to 29 March 2000 on the occasion

[12] A/58/353.

[13] *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 12* and addendum (A/58/12 and Add.1).

of the thirtieth anniversary of the adoption of the Organization of African Unity Convention governing the specific aspects of refugee problems in Africa of 1969;[1]

4. *Calls upon* States and other parties to armed conflict to observe scrupulously the letter and the spirit of international humanitarian law, bearing in mind that armed conflict is one of the principal causes of forced displacement in Africa;

5. [*Acknowledges* that host States have the primary responsibility to ensure the civilian and humanitarian character of asylum by, inter alia, making all efforts to locate refugee camps and settlements at a reasonable distance from the border, maintaining law and order, curtailing the flow of arms into refugee camps and settlements, preventing their use for the internment of prisoners of war, as well as through the disarmament of armed elements and identification, separation and internment of combatants];

6. [*Urges* refugee-hosting States to respect the civilian and humanitarian character of refugee camps by preventing the use of refugee camps for purposes which are incompatible with their civilian character];

7. *Expresses its appreciation* for the leadership shown by the United Nations High Commissioner for Refugees since assuming office in January 2001, and commends the Office of the High Commissioner for its ongoing efforts, with the support of the international community, to assist African countries of asylum and to respond to the protection and assistance needs of refugees, returnees and displaced persons in Africa;

8. *Reaffirms* that international protection and the search for durable solutions for refugees and, as appropriate, other persons of concern to the Office of the United Nations High Commissioner for Refugees, which were examined, inter alia, in the Global Consultations process and are reflected in the Agenda for Protection,[14] are at the core of the mandate of the Office of the United Nations High Commissioner for Refugees;

9. *Welcomes* the efforts of the Office of the United Nations High Commissioner for Refugees to strengthen its linkages with the other parts of the United Nations system to enhance refugee protection and to identify and implement durable solutions for refugees and other persons of concern to the Office, and appreciates the efforts of the Office to strengthen partnerships with operational and implementing partners;

10. *Takes note* of the Ministerial Meeting of States Parties to the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees as an expression of their collective commitment to fu.. and effective implementation of the Convention[8] and the Protocol;[9]

11. *Reaffirms* that the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, as complemented by the Organization of African Unity Convention of 1969, remain the foundation of the international refugee protection

[14] *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 12*, addendum (A/57/12/Add.1), annex IV.

regime in Africa, encourages African States that have not yet done so to accede to those instruments, and calls upon States parties to the Conventions to reaffirm their commitment to their ideals and to respect and observe their provisions;

12. *Notes* the need for States to address the root causes of forced displacement in Africa, and calls upon African States, the international community and relevant United Nations organizations to take concrete action to meet the needs of refugees, returnees and displaced persons for protection and assistance and to contribute generously to national projects and programmes aimed at alleviating their plight;

13. *Also notes* the link, inter alia, between human rights violations, poverty, natural disasters and environmental degradation and population displacement, and calls for redoubled and concerted efforts by States, in collaboration with the African Union, to promote and protect human rights for all and to address those problems;

14. *Encourages* the Office of the United Nations High Commissioner for Refugees to continue to cooperate with the Office of the United Nations High Commissioner for Human Rights and the African Commission on Human and Peoples' Rights, within their respective mandates, in the promotion and protection of the human rights and fundamental freedoms of refugees, returnees and displaced persons in Africa, and welcomes in this regard the signing of the memorandum of understanding between the African Commission on Human and Peoples' Rights and the United Nations High Commissioner for Refugees on 26 May 2003;

15. *Notes with appreciation* the ongoing mediation and conflict resolution efforts carried out by African States, the African Union and subregional organizations, as well as the establishment of regional mechanisms for conflict prevention and resolution, and urges all relevant parties to address the humanitarian consequences of conflicts;

16. *Expresses its appreciation and strong support* for those African Governments and local populations that, in spite of the general deterioration of socio-economic and environmental conditions and overstretched national resources, continue to accept the additional burden imposed upon them by increasing numbers of refugees and displaced persons, in compliance with the relevant principles of asylum;

17. *Welcomes* the decision of African heads of State and Government to address the situation of refugees, returnees and displaced persons in Africa within the context of the New Partnership for Africa's Development;[7]

18. *Expresses its concern* about instances in which the fundamental principles of asylum are jeopardized by unlawful expulsion or refoulement or by threats to the life, physical security, integrity, dignity and well-being of refugees;

19. *Reaffirms* that host States have the primary responsibility to ensure the civilian and humanitarian character of asylum, and calls upon States, in cooperation with international organizations, within their mandates, to take all necessary measures to ensure respect for the principles of refugee protection, and, in particular, to ensure that the civilian and humanitarian nature of refugee camps is not compromised by the presence or the activities of armed elements [or used for purposes which are incompatible with their civilian character];

20. *Deplores* the deaths, injuries and other forms of violence sustained by staff members of the Office of the United Nations High Commissioner for Refugees, urges States, parties to conflict and all other relevant actors to take all necessary measures to protect activities related to humanitarian assistance, to prevent attacks on and kidnapping of national and international humanitarian workers and to ensure their safety and security, calls upon States to investigate fully any crime committed against humanitarian personnel and to bring to justice persons responsible for such crimes, and calls upon organizations and aid workers to abide by the national laws and regulations of the countries in which they operate;

21. *Condemns* any exploitation of refugees, especially their sexual abuse and exploitation, calls for those responsible for such deplorable acts to be brought to justice, in this regard welcomes the Conclusion on Protection from Sexual Abuse and Exploitation adopted during the fifty-fourth session of the Executive Committee of the Office of the United Nations High Commissioner for Refugees, and notes with deep concern that inadequate protection and/or inappropriate assistance, particularly the quantity and quality of food and other material assistance, increases the vulnerability of refugees and asylum-seekers to sexual abuse and exploitation;

22. *Welcomes* the decision by the Office of the High Commissioner to put into place a code of conduct for humanitarian personnel aimed at preventing the exploitation of refugees, especially in the area of sexual exploitation;

23. *Calls upon* the Office of the High Commissioner, the African Union, subregional organizations and all African States, in conjunction with agencies of the United Nations system, intergovernmental and non-governmental organizations and the international community, to strengthen and revitalize existing partnerships and forge new ones in support of the international refugee protection system;

24. *Calls upon* the Office of the High Commissioner, the international community and other concerned entities to intensify their support to African Governments through appropriate capacity-building activities, including training of relevant officers, disseminating information about refugee instruments and principles, providing financial, technical and advisory services to accelerate the enactment or amendment and implementation of legislation relating to refugees, strengthening emergency response and enhancing capacities for the coordination of humanitarian activities;

25. *Reaffirms* the right of return and also the principle of voluntary repatriation, appeals to countries of origin and countries of asylum to create conditions that are conducive to voluntary repatriation, and recognizes that, while voluntary repatriation remains the pre-eminent solution, local integration and third-country resettlement, where appropriate and feasible, are also viable options for dealing with the situation of African refugees who, owing to prevailing circumstances in their respective countries of origin, are unable to return home;

26. *Notes with satisfaction* the voluntary return of millions of refugees to their homelands following the successful repatriation and reintegration operations carried out by the Office of the High Commissioner with the cooperation and collaboration of countries hosting refugees and countries of origin, and welcomes the efforts under way, in cooperation with other United Nations agencies and development actors, to promote a framework for durable solutions, particularly in

protracted refugee situations, including the 4Rs approach (repatriation, reintegration, rehabilitation and reconstruction) to sustainable return;

27. *Appeals* to the international community to respond positively, in the spirit of solidarity and burden-sharing, to the third-country resettlement requests of African refugees, and notes with appreciation that some African countries have offered resettlement places for refugees;

28. *Calls upon* the international donor community to provide financial and material assistance that allows for the implementation of community-based development programmes which benefit both refugees and host communities, as appropriate, in agreement with host countries and consistent with humanitarian objectives;

29. *Welcomes* the programmes carried out by the Office of the High Commissioner with host Governments, the United Nations, non-governmental organizations and the international community to address the environmental and socio-economic impact of refugee populations;

30. *Calls upon* the international donor community to provide material and financial assistance for the implementation of programmes intended for the rehabilitation of the environment and infrastructure affected by refugees in countries of asylum;

31. *Expresses its concern* about the long stay of refugees in certain African countries, and calls upon the Office of the High Commissioner to keep its programmes under review, in conformity with its mandate in the host countries, taking into account the increasing needs of refugees;

32. *Acknowledges* the importance of early and effective registration systems and censuses as a tool of protection and as a means to enable the quantification and assessment of needs for the provision and distribution of humanitarian assistance and to implement appropriate durable solutions;

33. *Emphasizes* the need for the Office of the High Commissioner to collate statistics, on a regular basis, on the number of refugees living outside refugee camps in certain African countries with a view to evaluating and addressing the needs of those refugees;

34. *Urges* the international community, in a spirit of international solidarity and burden-sharing, to continue to fund generously the refugee programmes of the Office of the High Commissioner and, taking into account the substantially increased needs of programmes in Africa, to ensure that Africa receives a fair and equitable share of the resources designated for refugees;

35. *Requests* all Governments and intergovernmental and non-governmental organizations to pay particular attention to meeting the special needs of refugee women and children and displaced persons, including those with special protection needs;

36. *Calls upon* States and the Office of the High Commissioner to make renewed efforts to ensure that the rights, needs and dignity of elderly refugees are fully respected and addressed through appropriate programme activities;

37. *Expresses grave concern* about the plight of internally displaced persons in Africa, calls upon States to take concrete action to pre-empt internal displacement

and to meet the protection and assistance needs of internally displaced persons, recalls in that regard the Guiding Principles on Internal Displacement,[15] and urges the international community, led by relevant United Nations organizations, to contribute generously to national projects and programmes aimed at alleviating the plight of internally displaced persons;

38. *Invites* the Representative of the Secretary-General on internally displaced persons to continue his ongoing dialogue with Member States and the intergovernmental and non-governmental organizations concerned, in accordance with his mandate, and to include information thereon in his reports to the Commission on Human Rights and the General Assembly;

39. *Requests* the Secretary-General to submit a comprehensive report on assistance to refugees, returnees and displaced persons in Africa to the General Assembly at its fifty-ninth session, taking fully into account the efforts expended by countries of asylum, under the item entitled "Report of the United Nations High Commissioner for Refugees, questions relating to refugees, returnees and displaced persons and humanitarian questions", and to present an oral report to the Economic and Social Council at its substantive session of 2004.

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[15] E/CN.4/1998/53/Add.2, annex.